



Department of Justice

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JUSTICE DEPARTMENT ASKS COURT TO MODIFY AND EXTEND PREVIOUS BRITISH TELECOM/MCI SETTLEMENT AFTER REVIEWING NEW DEAL

Justice Department Acts to Prevent Discrimination Against Competitors

WASHINGTON, D.C. -- The Department of Justice today asked the U.S. District Court in Washington, D.C. to modify and extend the existing 1994 settlement involving British Telecommunications plc and MCI Communications Corp., to ensure that British Telecom's proposed acquisition of MCI does not disadvantage competitors and raise prices for consumers.

The existing consent decree, entered in September, 1994, settled the Department's charges that British Telecom's acquisition of an initial 20 percent interest in MCI violated merger laws.

In its original complaint, the Department alleged that British Telecom could use its existing market power in the United Kingdom to disadvantage MCI's competitors in the market for telephone calls between the U.S. and the U.K., resulting in higher prices to U.S. consumers making such international calls.

"The existing settlement has worked well to prevent the anticompetitive effects the Department feared would result from the initial transaction," said Joel I. Klein, Acting Assistant

Attorney General in charge of the Department's Antitrust Division. "A lot has happened in this dynamic industry since 1994, but British Telecom still has market power in the U.K. We need to make certain changes to the consent decree and extend it to ensure that U.S. consumers continue to enjoy the lower prices and better service associated with competition on international routes."

British Telecom, headquartered in London, England, is the dominant carrier in the U.K. and one of the largest providers of telecommunications services in the world, with 1996 revenues of \$23.3 billion. MCI, of Washington, D.C., is the second largest U.S. telecommunications company and the world's third largest international carrier, with 1996 revenues of \$18.5 billion.

The original 1994 settlement contained provisions designed to prevent British Telecom from using its market power in the U.K. to discriminate in favor of MCI, or in favor of a British Telecom/MCI joint venture, at the expense of competing carriers in the market for international telecommunications services between the U.S. and the U.K., and around the world.

The proposed modified final judgment filed today in U.S. District Court in Washington, D.C., retains and, in some cases, strengthens these protections to take into account the full integration of British Telecom and MCI, as well as changed market conditions. Specifically, it requires the newly formed company to increase the amount of information it reports to the Department to facilitate the detection of specific instances of discrimination, and to support any complaints U.S. competitors might make to the relevant U.S. and U.K. regulatory agencies.

The proposed modified final judgment also revises the confidentiality provisions of the existing decree to reduce the risk that confidential, competitively sensitive information that British Telecom obtains in the course of its relationships with other U.S. telecommunications providers is not disclosed to MCI through the corporate parent, Concert plc.

The proposed filing also extends the time period of the existing decree and enhances the Department's ability to monitor and enforce compliance with the decree by naming the newly formed company as a party to the decree, and giving the Department access to its documents and personnel.

While both the U.S. and U.K. governments have enacted reforms since the original settlement was entered that alter the status of competition for international traffic between the U.S. and the U.K., British Telecom still maintains substantial market power in local and domestic long distance services in the U.K.

The proposed modifications to the final judgment, which require court approval, will continue to protect U.S. consumers from the possibility that the newly formed company, using British Telecom's local service monopoly, would harm competition in the markets for telephone calls between the U.S. and the U.K., and for worldwide telecommunications services.

During the course of its investigation, the Department also considered whether the newly formed company could deter or delay the entry of new facilities-based competitors on the U.S.-U.K. route by refusing to make available to new entrants certain necessary facilities, such as transatlantic cable capacity, or U.S. backhaul services. Modification of the existing final judgment is not required to ensure that new entrants have access to transatlantic cable capacity, however, because the European Commission has required, as a condition of its approval of the merger, that British Telecom divest all the overlapping cable capacity it will obtain through the proposed merger.

In addition, under a procedure outlined in the 1994 settlement, the Department has referred to the Federal Communications Commission the issue of whether regulatory action is appropriate to ensure that new entrants have access to U.S. backhaul facilities.

At the same time, however, the Department will continue to investigate new entrants' access to backhaul facilities. And, the parties have further agreed not to contest further action by the Department on this issue, if such action is necessary.

The proposed modifications to the decree will be published in the Federal Register, together with the Department's supporting memorandum. Any person may submit written comments on the proposed decree modifications to Donald J. Russell, Chief, Telecommunications Task Force, Antitrust Division, U.S. Department of Justice, 555 Fourth Street, N.W., Washington, D.C. 20001.

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